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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1230th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations of the Committee concerning the thirteenth periodic report of Denmark (document distributed in the meeting, in English only: CERD/C/51/Misc.17 - future CERD/C/304/Add.35 - future CERD/C/51/CRP.1/Add.14)

Paragraphs 1-4

1. Paragraphs 1-4 were adopted.

Paragraph 5

2. Mrs. SADIQ ALI requested clarification of the meaning of the word "insertion" in the sentence "... to improve their insertion into the labour market".

3. The CHAIRMAN informed Mrs. Sadiq Ali that the expression, which was widely used in Europe, was generally understood to mean the fact of increasing the chances of finding a job.

4. Mr. ABOUL-NASR took the view that there was no reason to use that expression solely on account of the fact that it had become established in Europe, since the Convention was of worldwide application.

5. The CHAIRMAN suggested replacing the word "insertion" by the word "entry", which had widespread acceptance.

6. It was so decided.

7. Paragraph 5, as amended, was adopted.

Paragraphs 6-8

8. Paragraphs 6-8 were adopted.

Paragraph 9

9. Mr. ABOUL-NASR proposed that the first sentence should be deleted, since he could see no point in again noting with appreciation the fact that Denmark had made the declaration envisaged in article 14.

10. Paragraph 9, as amended, was adopted.

Paragraph 10

11. Mr. ABOUL-NASR proposed that the words "... in the European Year against Racism" should be replaced by "... in international efforts against racism".

12. Mr. WOLFRUM supported the proposal.

13. Paragraph 10, as amended, was adopted.

Paragraph 11

14. Mr. ABOUL-NASR wondered whether, at the current stage, there was any point in expressing regret that the report did not provide any information on the implementation of article 3 and asked whether paragraph 18, which came within the section "Suggestions and recommendations", was not sufficient to express that idea.

15. Mr. WOLFRUM recalled that the Committee customarily expressed its concerns about a particular question prior to formulating suggestions and recommendations about it.

16. Mr. SHAHI considered that paragraph 11 should include a specific reference to the information that the Committee had requested regarding the application of article 3.

17. Mr. WOLFRUM stated that the members of the Committee had inquired about the methods of allocating housing on the outskirts of Copenhagen, which seemed to them to be detrimental to immigrants, and about the placing of immigrants' children in special schools which were far away from their homes.

18. The CHAIRMAN suggested that the text of the paragraph might be replaced by the following: "The Committee regrets that the present periodic report does not provide sufficient information as previously requested on the implementation of article 3 of the Convention, with particular reference to the allocation of housing and requirements to attend special schools."

19. It was so decided.

20. Paragraph 11, as amended, was adopted.

Paragraph 12

21. Mr. ABOUL-NASR proposed that the word "liberal", describing the reaction of the authorities to the dissemination of racist ideas over the radio, should be replaced by the word "lenient".

22. Mr. WOLFRUM proposed that the words "Firstly" and "Secondly" should be added at the beginning of the second and third sentences of the paragraph in order to highlight the two points that particularly concerned the Committee with regard to the implementation of article 4.

23. The CHAIRMAN read out the paragraph as amended orally, together with some drafting changes: "Although the amendment of section 266 (b) of the Penal Code assists the more effective implementation of obligations deriving from article 4 of the Convention, two concerns remain. Firstly, the prosecuting practice is focusing too much on propaganda activities while other means of disseminating racist ideas are treated as minor offences; this gives a restrictive interpretation to the provisions of this article. Secondly, the Committee expresses particular concern at the lenient attitude towards the dissemination of racist ideas over the radio. It is also noted that organizations using racist propaganda to incite racial discrimination are not declared illegal and not prohibited."

24. Paragraph 12, as amended, was adopted.

Paragraph 13

25. The CHAIRMAN requested clarification of the word "minority".

26. Mr. WOLFRUM said that the word, as used in the context, referred to the native Greenlanders who, although in a majority in Greenland, were a minority within the Kingdom of Denmark. He pointed out that Greenland and the Faeroe Islands enjoyed a special status of autonomy by virtue of which, among other things, they were not members of the European Union.

27. Mr. RECHETOV expressed the view that the Committee should display caution with regard to the political and territorial status of Greenland and the Faeroe Islands and therefore proposed that the word "minority" should be deleted.

28. It was so decided.

29. Paragraph 13, as amended, was adopted

Paragraph 14

30. Mr. WOLFRUM explained that the word "residents" referred to Danish citizens living in Denmark whose parents were immigrants or asylum seekers and who had had to be given a Danish first name by virtue of the law in question.

31. Following an exchange of views between Mr. ABOUL-NASR, Mr. VALENCIA RODRIGUEZ, Mr. SHAHI, Mr. AHMADU and the CHAIRMAN, the CHAIRMAN suggested that the paragraph should be worded to read: "Concern is expressed that a rigid implementation of a law of 1981 on names has a discriminatory effect on residents of non-Danish ethnic or national origin."

32. It was so decided.

33. Paragraph 14, as amended, was adopted.

Paragraph 15

34. Paragraph 15 was adopted.

Paragraph 16

35. Following a discussion between Mr. WOLFRUM, Mr. DIACONU, Mr. ABOUL-NASR, Mr. SHAHI, Mr. AHMADU, Mr. SHERIFIS and Mr. RECHETOV regarding the exact status of the Convention in Greenland and in the Faeroe Islands which, although forming part since 1953 of the Kingdom of Denmark, enjoyed internal autonomy in some fields, the CHAIRMAN suggested that the paragraph should be deleted, it being understood that the Committee could come back to the matter when it examined paragraph 24.

36. It was so decided.

Paragraph 17

37. The CHAIRMAN drew attention to typing errors in paragraph 17 and he suggested that it should be worded to read: "Concern is also expressed over insufficient information about the relocation of seal hunters' villages in Thule in 1953 and, in particular, about the persistent long delay in resolving the compensation claim of the population of Thule, displaced from their traditional hunting grounds and places of settlement."

38. Paragraph 17, as amended, was adopted.

Paragraph 18

39. Paragraph 18 was adopted.

Paragraph 19

40. Mr. GARVALOV pointed out that article 4 contained not only paragraphs (a) and (b), which were mentioned in the text, but also a paragraph (c). He proposed that reference should be made simply to article 4, the reference to paragraphs (a) and (b) being deleted and the expression "this provision" at the end of the first sentence being replaced by "these provisions".

41. Paragraph 19, as amended, was adopted.

Paragraph 20

42. Paragraph 20 was adopted.

Paragraph 21

43. Mr. SHERIFIS proposed that the wording of the paragraph should be brought into line with that of paragraph 13 through the deletion of the word "minority".

44. Paragraph 21, as amended, was adopted.

Paragraph 22

45. Mr. SHERIFIS proposed that the words "and to the Faeroe Islands" should be added at the end of the paragraph.

46. Mr. WOLFRUM, while prepared to accept that amendment, pointed out that the Faeroe Islands, unlike Greenland, did not have their own legal system.

47. Paragraph 22, as amended, was adopted.

Paragraph 23

48. Mr. AHMADU suggested that the word "issue" in the second line of the paragraph should be deleted and that the spelling of Thule should be corrected.

49. Paragraph 23, as amended, was adopted.

Paragraph 24

50. Mr. RECHETOV proposed, firstly, that the words "the status and" should be added before "the implementation of the Convention in Greenland and the Faeroe Islands" and, secondly, that the words "on the subject" should be added at the end of the paragraph.

51. Mr. WOLFRUM pointed out that the basic document submitted by Denmark contained all the information required on the status of Greenland, but not on the status and implementation of the Convention in Greenland and in the Faeroe Islands.

52. Mr. SHAHI said that he was prepared to accept the first amendment suggested by Mr. Rechetov, but not the second.

53. Mr. RECHETOV then proposed that the words "and address all the concerns expressed by the Committee" should be deleted at the end of the paragraph after the words "Faeroe Islands" or, possibly, that the last part of the sentence should be made into a separate paragraph.

54. Mr. WOLFRUM opposed the deletion of the last part of the sentence, since Denmark had not addressed the concerns expressed by the Committee following consideration of the previous report.

55. Mr. DIACONU said that he, for his part, was against the addition of a separate paragraph to express the Committee's concerns. As a general observation, though without insisting that the point should be reflected in the Committee's concluding observations, he wished to point out that Finland was the only Scandinavian country that, since the revision of the Constitution in 1993, recognized not only long-established minorities, but also all ethnic groups, on the basis of uniform and objective criteria. The Committee might perhaps wish to adopt a recommendation on that question.

56. The CHAIRMAN informed Mr. Diaconu that the Committee would certainly return to the question at a later date. It was his understanding that the first amendment proposed by Mr. Rechetov was acceptable to all, so that the paragraph would then read: "The Committee recommends that the State party's next periodic report contain specific information regarding the status and the implementation of the Convention in Greenland and the Faeroe Islands, and address all the concerns expressed by the Committee."

57. Paragraph 24, as amended, was adopted.

58. The draft concluding observations of the Committee concerning the thirteenth periodic report of Denmark, as orally amended, were adopted.

Draft concluding observations of the Committee concerning the eleventh, twelfth and thirteenth periodic reports of Iraq (document distributed during the meeting, in English only: CERD/C/51/Misc.12/Rev.1 - future CERD/C/304/Add.28 - future CERD/C/51/CRP.1/Add.4)

Paragraph 1

59. Paragraph 1 was adopted.

Paragraph 2

60. Mr. ABOUL-NASR deplored the negative tone of the introduction, in which the Committee already expressed regret in the second sentence. He thought that it would be better to include that second sentence in section D (Principal subjects of concern).

61. Mr. RECHETOV wondered whether it should not be indicated in the concluding observations that, for the first time in its history, the Committee was formulating such observations on a report not at the meeting when it was examined, but at the following meeting. He asked the Chairman whether that was a new practice which could be applied to other countries.

62. The CHAIRMAN said he doubted whether the Committee would wish to make a habit of postponing consideration of its concluding observations to a subsequent meeting; it had simply been forced by circumstances to have recourse to that procedure in the case of Iraq.

63. Mr. SHAHI proposed, as a way of responding to Mr. Aboul-Nasr's concern, that the beginning of the second sentence of paragraph 2 should be deleted, so that the sentence would read: "The report did not fully follow the guidelines for the presentation of reports and lacked concrete information on the practical implementation of the Convention and laws bearing on issues concerning the Convention."

64. Paragraph 2, as amended, was adopted.

Paragraph 3

65. Mr. ABOUL-NASR proposed that the paragraph should be deleted.

66. Mr. van BOVEN said that, although he himself was not in favour of the idea of requesting States parties to make the declaration envisaged in article 14, the Committee must, for the sake of consistency, keep to the decision that it had taken to insert such a paragraph in all the concluding observations addressed to those States parties that had not made that declaration.

67. Mr. de GOUTTES added that the wording proposed, although not ideal, was flexible enough to be generally acceptable and that it was preferable to the outright deletion of the paragraph.

68. Mr. ABOUL-NASR requested that, if it was retained, the paragraph should be included among the concluding observations regarding the reports of all the States concerned, without exception and in its usual place.

69. The CHAIRMAN said it was his understanding that the Committee wished to keep paragraph 3, while taking account of the wish expressed by Mr. Aboul-Nasr.

70. It was so decided.

71. Paragraph 3 was adopted.

Paragraph 4

72. Mr. SHAHI asked whether the area mentioned in the second line of the paragraph was really called the "Northern Governates".

73. Mr. ABOUL-NASR thought that the words "the further" in the penultimate sentence should be deleted, since they added nothing to the text.

74. Mr. SHAHI said that in view of the extreme hardship that Iraq was currently experiencing it was excessive to ask it, as the Committee was doing in the last sentence, to implement all its international human rights commitments.

75. Mr. GARVALOV considered that, since the Committee's mandate was to monitor the application of the Convention, it was preferable to confine itself to that instrument and delete the phrase "international human rights commitments, including" in the last sentence of the paragraph.

76. Mr. YUTZIS defended the consistency and balance of paragraph 4: since it recognized the general situation existing in Iraq, it could not, in the last sentence, ignore the fact that the application of the Convention also took place in a more general context of respect for human rights. Clearly, there should be no question of specifically requesting Iraq to carry out its responsibilities in respect of the whole range of human rights, but it was

clear, as the Committee had already observed with regard to other countries, that a State could not point to its difficulties as a reason for evading its obligations.

77. Mr. AHMADU proposed, in view of the time that had elapsed since March when the first version of the draft concluding observations had been produced, that the text should be brought up to date by adding the word "fully" before the word "implemented" at the end of the third sentence of the paragraph. In the first line the word "hardship" seemed to him to be a more suitable term than "crisis" for describing the precarious situation in Iraq.

78. Mr. de GOUTTES said that he was convinced by the arguments put forward by Mr. Yutzis in favour of retaining the text of paragraph 4, but that he would not be opposed to the amendment proposed by Mr. Garvalov.

79. Mr. DIACONU supported the solution put forward by Mr. Garvalov: while it was clear that Iraq, in its present situation, was quite unable to perform all its commitments under the Convention, it could not, for all that, be exempted from its obligation not to practise discrimination, in particular with regard to the distribution of scarce resources.

80. Mr. SHAHI said he found there to be some lack of consistency between the beginning of the paragraph, where, in effect, the Committee excused in general terms Iraq's failure to meet its obligations, and the end, where it reminded Iraq - also in general terms - of its commitments. Such a reminder could be justified - for example, so as not to give Iraq an excuse for practising torture - but it should be done in such a way that the two sentences were consistent with one another.

81. Mr. YUTZIS said it was important to express the idea that, despite the very real difficulties encountered by the State party in fully carrying out its obligations, it was obliged to do everything within its power to fulfil its commitments. The text might perhaps be improved by deleting the phrases concerning the implementation of other human rights instruments.

82. Mr. RECHETOV said that, in his view, the difficulties arose mainly from the use of the word "commitments" in the last sentence. The reference to commitments was too vague. A reminder of its "obligations" would be clearer, and since Iraq should not be allowed to believe that it could protect some human rights but not others - and thus, for example, practise torture - it should be made clear that the obligations were specific to Iraq through the insertion of "its" between the words "implement" and "international".

83. The CHAIRMAN said he believed that the deletion of the words "international human rights commitments, including" in the final sentence would meet the wishes of the majority of the members.

84. Mr. DIACONU proposed, as a means of exhorting Iraq to do everything within its power, that the end of the final sentence should be amended so as to read: "its responsibility to make all possible efforts to implement the Convention".

85. Mr. ABOUL-NASR advised the Committee to confine itself to requesting Iraq to implement the Convention, without mentioning other rights, such as freedom from torture, since otherwise it would be playing into the hands of those who, on the pretext that Iraq did not always apply all human rights instruments to the letter, were opposed to the lifting of sanctions against that country. The fact was that, there was no country which - especially in the critical situation in which Iraq found itself - was absolutely beyond reproach. The Committee should not venture into the political sphere.

86. The CHAIRMAN suggested that paragraph 4 should be put to the vote.

87. Mr. GARVALOV, speaking on a point of order, asked the Chairman to begin by inviting the Committee to decide on the amendments proposed. He suggested, for his part, adding the words "and other international human rights obligations" to the heading of section B, so as to cover the two ideas expressed in the first and final sentences of the paragraph.

88. Mr. de GOUTTES, intervening on the same grounds, considered that that objective could be achieved in a different manner and proposed that the Committee should recognize, in the first sentence, that the full implementation of the Convention was "made more difficult" rather than "impeded" by certain factors.

89. The CHAIRMAN said it was his understanding that there was no support in the Committee for a vote to be held on Mr. Garvalov's proposal and that the normal wording used in the heading of the section should be retained. He put the paragraph with the following amendments to the vote: in the first sentence, "crisis" should be replaced by "hardship", and "impede" by "makes ... more difficult". In the third sentence, the word "fully" should be inserted between "been" and "implemented". In the fourth sentence the words "the further" should be deleted; and in the last sentence the words "international human rights commitments, including" should also be deleted.

90. A vote was taken by a show of hands.

91. Paragraph 4, as amended, was adopted by 15 votes to none, with 1 abstention.

Paragraph 5

92. Paragraph 5 was adopted.

Paragraph 6

93. Mr. DIACONU pointed out that the end of the paragraph should read "are noted" instead of "is noted".

94. Paragraph 6 was adopted subject to that drafting change.

Paragraph 7

95. Mr. DIACONU proposed that the words "including on aspects concerning the implementation of the Convention" should be inserted in the first line after the words "the human rights situation in Iraq", so as to make a direct reference to the Convention and not just refer to a report that had been drawn up by a body other than the Committee. Otherwise, it would be better to delete the first two sentences of the paragraph.

96. The CHAIRMAN suggested, bearing in mind Mr. Diaconu's proposal, that the paragraph might be amended to read: "According to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), the human rights situation in Iraq with respect to the implementation of the Convention is a matter of grave concern."

97. Mr. ABOUL-NASR asked Mr. Wolfrum to indicate whether the Special Rapporteur had actually stated in his report that the failure to implement the Convention in Iraq was a matter of grave concern.

98. Mr. WOLFRUM stated, for the benefit of Mr. Aboul-Nasr, that the Special Rapporteur, without mentioning the Convention, had nonetheless expressed his concerns regarding facts that related to the application of the Convention.

99. Mr. AHMADU proposed that the beginning of the paragraph should read: "The human rights situation in Iraq, according to certain reports, in particular the report of the Special Rapporteur ...".

100. The CHAIRMAN thought that Mr. Diaconu's proposal could be taken into account by the following wording: "The human rights situation in Iraq in respect of the implementation of the Convention, according to certain reports, in particular the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1997/57), is a matter of grave concern."

101. Mr. van BOVEN, supported by Mr. de GOUTTES, said that the text proposed by Mr. Diaconu, as amended by the Chairman, preserved the main features of the conclusion reached, which was already very neutral.

102. Paragraph 7, as orally amended by Mr. Diaconu, was adopted.

Paragraph 8

103. Mr. ABOUL-NASR said he did not believe that the Committee should concern itself with whether Security Council resolutions regarding the protection of human rights in Iraq had been fully implemented. He was not sure that any of the Security Council resolutions had been applied in its entirety and thought it dangerous to establish a link between the Committee's recommendations and the sanctions that had been taken against Iraq, whose application had given rise to all kinds of problems. It would be better for the Committee to confine itself to reminding Iraq of its obligations under the Convention.

104. Mr. DIACONU said he thought that, unless it was definitely established that the resolutions mentioned in draft paragraph 8 did in fact deal with the human rights situation and the implementation of the Convention in Iraq, the Committee should refrain from referring to them. It would be better to urge Iraq to fulfil the obligations regarding the elimination of racial discrimination that it had entered into under the Convention. Otherwise, it would be better to consider deleting the paragraph.

105. Mr. WOLFRUM said he was opposed to the proposal to delete the paragraph. Unlike Mr. Aboul-Nasr he considered that there was nothing in the text that could be interpreted as an appeal on behalf of sanctions that would give rise to new violations of human rights. If it was not right to mention Security Council resolutions in paragraph 8, why do so in paragraph 14?

106. Mr. de GOUTTES said he shared Mr. Wolfrum's point of view. He proposed that, in order to gain time, a vote should be taken on the paragraph in question.

107. Mr. RECHETOV said that he, unlike Mr. Diaconu, thought it better that paragraph 8, which seemed to him to be very important, should be retained without change. Furthermore, he considered it possible to reach a consensus without taking a vote.

108. Mr. AHMADU said he feared that paragraph 8 looked like a political statement totally unconnected with the questions with which the Committee was concerned. However, it seemed to him that the Committee could avoid the difficulty by merging paragraph 8 with paragraph 14.

109. The CHAIRMAN, taking up Mr. Ahmadu's proposal, proposed a new text which would begin with paragraph 8 and continue with paragraph 14. The new text would begin with the words: "While concerned that Security Council resolutions ...".

110. Mr. RECHETOV said he found little merit in Mr. Ahmadu's proposal. He pointed out that paragraph 8 referred to Security Council resolutions in general, while paragraph 14 referred to particular provisions of one resolution of the Council.

111. Mr. ABOUL-NASR proposed that, after the word "concerning", the sentence should continue with the words "the elimination of all forms of racial discrimination in Iraq have not been fully implemented". That formula would cover the situation of both the Kurds in the north of Iraq and the inhabitants of the marshes in the south.

112. Mr. SHAHI suggested, bearing in mind Mr. Aboul-Nasr's observations, that it might be possible to combine paragraph 8 with paragraphs 9 and 10, which drew Iraq's attention to the situation of, respectively the Kurds in the north and the inhabitants of the marshes in the south.

113. Mr. ABOUL-NASR, with a view to making his previous amendment more specific, proposed the insertion, after "Security Council resolutions", of the words "dealing with matters relating to racial discrimination ...".

114. Mr. de GOUTTES proposed, as a sub-amendment, the following text: "The Committee is concerned that Security Council resolutions concerning the protection of human rights in Iraq have not been fully implemented as regards the elimination of racial discrimination".

115. Mr. ABOUL-NASR maintained his draft amendment.

116. Mr. van BOVEN, stating that to his knowledge there was no Security Council resolution mentioning human rights, considered that the text proposed by Mr. Aboul-Nasr was correct as to its substance and could be adopted without being put to the vote.

117. Paragraph 8, as amended by Mr. Aboul-Nasr, was adopted.

118. Mr. GARVALOV said he did not think that the Committee's rules of procedure had been fully observed during the examination of paragraph 8: in his opinion, the sub-amendment proposed by Mr. de Gouttes had not been properly taken into consideration.

Paragraphs 9-12

119. Paragraphs 9-12 were adopted.

Paragraph 13

120. The CHAIRMAN suggested, for reasons of syntax, that the word "for" should be inserted after "respect".

121. Paragraph 13, as amended, was adopted.

Paragraph 14

122. Mr. ABOUL-NASR said that, in his view, mention should be made of all the prisoners or detainees and also of all the persons reported missing in the Iran-Iraq conflict, irrespective of the State to which they belonged.

123. Mr. WOLFRUM remarked that the purpose of paragraph 14 was to obtain the release of persons detained in Iraq and that it was not concerned with persons who had been reported missing during the conflict. However, the Committee could, on purely humanitarian grounds, mention the prisoners of war and the other persons kept in detention following the conflict, whatever their nationality. It could also request information on the persons reported missing during that period.

124. Mr. DIACONU pointed out that the matters referred to in paragraph 14 appeared to be in the sphere of humanitarian law and the law of war and, consequently, came under the Geneva Conventions rather than the International Convention on the Elimination of All Forms of Racial Discrimination. Accordingly, he did not believe that the Committee should express an opinion on such matters.

125. The CHAIRMAN, noting that a consensus appeared to have emerged on the substance of the matter, suggested that consideration of paragraph 14 should be postponed, it being understood that Mr. Wolfrum would submit a new text of that paragraph to the Committee.

126. It was so decided.

127. Mr. RECHETOV requested that note should be taken of his very strong reservations regarding paragraph 14. He stated that the text did not correspond, either in substance or form, to the way in which the Committee usually reacted to a declaration made by a State party.

Paragraphs 15-20

128. Paragraphs 15-20 were adopted.

129. The CHAIRMAN said that, at its following meeting, the Committee would complete its consideration of the draft concluding observations concerning the eleventh, twelfth and thirteenth periodic reports of Iraq.

The meeting rose at 6 p.m.